IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

CRP.No. 910 OF 2004()

AGAINST THE ORDER DATED 10/12/2003 IN EP.256/02 IN LAR.11/1993 OF I ADDL.SUB COURT,ERNAKULAM

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REVN. PETITIONER: 2ND RESPONDENT:

M/S. INDIAN OIL CORPORATION LTD.,
REPRESENTED BY ITS AREA MANAGER,
PANAMPILLY NAGAR, COCHIN-682 036.

BY ADV. SRI.A.M.SHAFFIQUE
SRI.A.M.SHAFFIQUE

RESPONDENTS: PETITIONER-CLAIMANTS & 1ST RESPONDENT:

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1. THRESSIAMMA ANTONY,
WIFE OF LATE M.V.ANTONY, MANICKANAMPARAMBIL HOUSE,
UDAYAMPEROOR, NADAKKAVU, ERNAKULAM DISTRICT.

2. M.A.GEORGE, SON OF LATE M.V.ANTONY,
MANICKANAMPARAMBIL HOUSE, UDAYAMPEROOR,
NADAKKAVU, ERNAKULAM DISTRICT.

3. MRS.SALAMMA VARGHESE,D/O.LATE M.V.ANTONY
WIFE OF VARGHESE, M. VAZHATHRA, VAZHATHARA HOUSE,
UDAYAMPEROOR, ERNAKULAM DIST.

4. JOSE ANTONY, SON OF LATE M.V.ANTONY,
MANICKANAMPARAMBIL HOUSE, UDAYAMPEROOR,
ERNAKULAM DIST.

5. SABU ANTONY, S/O. M.V.ANTONY,
MANICKANAMPARAMBIL HOUSE, UDAYAMPEROOR,
NADAKKAVU, ERNAKULAM DIST.

6. STATE OF KERALA,
REPRESENTED BY THE DISTRICT COLLECTOR,
ERNAKULAM.

GOVERNMENT PLEADER SRI. THOMAS JOHN AMBOOKEN

R1 TO R5 BY ADVS. SRI.T.K.VENUGOPALAN,
SRI.SHIBU JOSEPH

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.R.P. NO. 910/2004

ORDER ON I.A. NO. 2398/2004

// DISMISSED //

20.7.2007. SD/-
P.R. RAMAN, JUDGE.

// TRUE COPY //

P.S. TO JUDGE.

knc/-

P.R. RAMAN, J.

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C.R.P. NO. 910 OF 2004

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DATED THIS, THE 20TH DAY OF JULY, 2007.

O R D E R

This revision arises out of an order passed by the Sub Court, Ernakulam, in E.P. 256/2002 in L.A.R. No. 11/1993, dated 10.12.2003. Petitioner herein, M/s. Indian Oil Corporation Ltd. is the requisitioning authority for whom the land in question was acquired by the State along with other lands. The District Collector passed his award determining the compensation. Thereafter, the claimants preferred enhancement claim which was referred as L.A.R. 11/1993 before the Sub Court, Ernakulam. The court below awarded enhancement of compensation which was later modified by this Court in further appeal L.A.A. 7/96. Thereafter, the first respondent sought to execute the decree by filing the Execution Petition. According to the petitioner, the entire amount covered by the decree was deposited by the State on 25.8.2000. It was thereafter that the decree holder filed fresh execution petition pursuant to the decree passed by this Court in the Land Acquisition Appeal in which the decree holder claimed an amount of Rs. 7,97,055/- as balance amount payable towards the decree. It

was also contended by the decree holder that interest was not paid on the solatium and additional market value. Objections were filed by the petitioner herein inter alia stating that the amount claimed was not correct and according to him no amount was payable. It was also contended that since the amount was already deposited on 25.8.2000, no interest was payable on the solatium and the additional market value.

2. The court below, by a single line order, fixed the amount at Rs. 26,63,787.90 + Rs. 500/- as the liability. Curiously enough, after fixing the said liability, the matter is posted for further hearing of the decree holder. In other words, it is not a final order passed. No reasons are stated or no details are available on record to show as to how the amount was arrived at. The work sheet is also not available. In a case like this, where there is contest by the respondent raising legal contentions, the court below ought to have considered such contentions and passed orders giving reasons. The order thus passed is far from satisfactory.

3. In the circumstances, the order is set aside and the matter is remanded to the executing court for fresh disposal in accordance with law, after hearing both sides. It is open to both sides to file additional statements showing the various payments made and received under different heads towards compensation and whether there is any balance due.

The revision is thus allowed by way of remand. The parties shall appear before the executing court on 13.8.2007.

P.R. RAMAN,
(JUDGE)

knc/-